

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: MIDAMERICAN ENERGY COMPANY	DOCKET NO. P-739
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PROPOSED DECISION AND ORDER GRANTING PERMIT

(Issued September 12, 2001)

APPEARANCES:

MR. ROBERT P. JARED and MS. SUZAN M. STEWART, Attorneys at Law, MidAmerican Energy Company, 106 East Second Street, P.O. Box 4350, Davenport, Iowa 52808, appearing on behalf of MidAmerican Energy Company.

MS. JENNIFER C. EASLER, Attorney at Law, 310 Maple Street, Des Moines, Iowa 50319, appearing on behalf of the Iowa Department of Justice, Office of Consumer Advocate.

STATEMENT OF THE CASE

On June 28, 1974, the Utilities Board (Board) issued Pipeline Permit No. 867 in Docket No. P-739 to Iowa-Illinois Gas and Electric Company (predecessor corporation to MidAmerican Energy Company) to construct, operate, and maintain a natural gas pipeline in Scott County, Iowa. (original 1974 file; permit renewal petition; O'Neal report; testimony of Mr. Grigsby) The permit was for the pipeline at issue in this case. (permit renewal petition; O'Neal report; testimony of Mr. Grigsby) On May 24, 1999, MidAmerican Energy Company (MidAmerican) filed a petition and exhibits for renewal of its natural gas pipeline permit.

The renewal petition is for 0.75 miles of a 4-inch diameter, 0.219" wall, steel pipeline in Scott County, Iowa, that transports natural gas from existing utility facilities located near Davenport, Iowa, to its point of termination at the John Deere plant service line connection in Davenport, Iowa. The pipeline provides natural gas to the John Deere plant. (O'Neal report; permit renewal petition; testimony of Mr. Grigsby)

On August 1, 2001, the Board assigned this case to a presiding officer. A procedural schedule was established by order entered on August 1, 2001. In that order, the undersigned administrative law judge set September 12, 2001, as the date for the hearing on the petition. Also in that order, the undersigned proposed to take official notice of a July 27, 2001 report concerning the pipeline prepared by Mr. Jeffrey L. O'Neal, a regulatory engineer for the Utilities Division's Safety and Engineering Section.

MidAmerican caused notice of the hearing to be published in Scott County in the Quad-City Times, morning edition, a newspaper of general circulation in the county, on August 22, 2001 and August 29, 2001. (proof of publication)

MidAmerican filed prepared direct testimony of Mr. David C. Grigsby on August 15, 2001. The Iowa Department of Justice, Office of Consumer Advocate (Consumer Advocate), filed a statement in lieu of testimony on August 27, 2001. In the statement, the Consumer Advocate indicated it had no objection to the taking of official notice of Mr. O'Neal's report.

The hearing was held on September 12, 2001, by telephone conference call. Mr. David Grigsby, senior gas engineer for MidAmerican, testified on MidAmerican's behalf. The parties did not object to the taking of official notice of Mr. O'Neal's report.

DISCUSSION OF THE EVIDENCE

MidAmerican seeks a renewal of Permit No. 867 to allow it to operate and maintain an existing natural gas pipeline approximately 0.75 mile long in Scott County, Iowa. (permit renewal petition; testimony of Mr. Grigsby; O'Neal report) The pipeline supplies natural gas to an existing John Deere plant in Scott County, Iowa. (testimony of Mr. Grigsby)

The pipeline begins at existing utility facilities near Davenport, Iowa, and continues in an easterly direction approximately 0.75 mile to the site of the John Deere Plant service line connection in Davenport, Scott County, Iowa. The pipeline is a four-inch steel line and has a maximum operating pressure of 425 pounds per square inch (psi). (Petition Exhibit C; testimony of Mr. Grigsby; O'Neal report)

MidAmerican is obligated to operate and maintain this pipeline in accordance with the standards adopted by reference at 199 IAC § 10.12(1), which include the federal natural gas pipeline safety standards found in 49 C.F.R. Part 192. Mr. Jeff O'Neal inspected the pipeline for compliance with these standards on February 22, 2000 through June 16, 2000 per Iowa Code § 479.11(2001). (O'Neal report) These inspections found probable violations, and MidAmerican was notified of the

violations. (O'Neal report) MidAmerican filed its response in a letter dated January 22, 2001. (MidAmerican letter; O'Neal report)

Mr. O'Neal conducted a follow-up inspection on June 11 – 15, 2001. (O'Neal report) Staff received a revised emergency response plan, effective August 1, 2001, from MidAmerican on July 6, 2001. In his report dated July 27, 2001, Mr. O'Neal concluded that: a) once MidAmerican's revised plan became effective, all probable violations cited in the report would be corrected; b) designating the pipeline as a Class 3 location appears prudent considering the proximity to developed areas and the possibility of future development; c) the pipeline's design and operating pressure meet Class 3 standards; d) the petition for permit renewal is essentially in order; and e) MidAmerican should file revised petition Exhibits A and B to show the correct name of the rail line crossed by the pipeline and ensure that the published official notice contains the correct name of the line. (O'Neal report) MidAmerican filed these revised exhibits with the prefiled testimony of Mr. Grigsby on August 15, 2001.

The pipeline meets all applicable design, construction, and testing requirements. (O'Neal report; permit renewal petition; testimony of Mr. Grigsby) No objections to the renewal of the permit were filed. (Docket No. P-739 file)

MidAmerican owns non-pipeline property within the state subject to execution of a reasonable value in excess of \$250,000. (testimony of Mr. Grigsby; petition Exhibit D)

ANALYSIS

Iowa Code §§ 479.12 and 479.26 (2001) apply to all petitions for pipeline permits. Section 479.12 provides that:

The board may grant a permit in whole or in part upon terms, conditions, and restrictions as to safety requirements and as to location and route as determined by it to be just and proper. Before a permit is granted to a pipeline company, the board, after a public hearing as provided in this chapter, shall determine whether the services proposed to be rendered will promote the public convenience and necessity, and an affirmative finding to that effect is a condition precedent to the granting of a permit.

Iowa Code § 479.12 (2001). Section 479.26 requires any applicant for a pipeline permit to establish that it has property subject to execution within Iowa, other than pipelines, of a value greater than \$250,000, or it must file and maintain a surety bond of the same amount. The applicant may satisfy this requirement in any of several prescribed ways. Iowa Code § 479.26 (2001); 199 IAC §10.2(1)"d."

Together, these statutes generate four issues: (1) whether the services the petitioner proposes to render will promote the public convenience and necessity; (2) whether it is just and proper to impose terms, conditions, and restrictions involving safety requirements upon the permit; (3) whether it is just and proper to impose terms, conditions, and restrictions as to location and route of the pipeline upon the permit; and (4) whether the petitioner has presented adequate proof of satisfactory financial condition.

First, the evidence shows that continued operation of this pipeline is necessary to provide natural gas service to the existing John Deere plant in

Davenport, Iowa. (permit renewal petition; testimony of Mr. Grigsby; O'Neal report)

Therefore, the service promotes the public convenience and necessity. (permit renewal petition; testimony of Mr. Grigsby; O'Neal report)

Second, the evidence shows the pipeline complies with the construction, safety, and design requirements of Iowa Code Chapter 479 (2001), 199 IAC 10.12, and 49 C.F.R. Part 192. (testimony of Mr. Grigsby; permit renewal petition; O'Neal report) Therefore, there is no reason to impose additional safety-related terms, conditions and restrictions upon the permit. (testimony of Mr. Grigsby; permit renewal petition; O'Neal report)

The third issue is whether terms, conditions, or restrictions as to location and route should be imposed. Iowa Code § 479.12 (2001). The pipeline was built in 1974. (original 1974 file) The location and route are reasonable and there is no reason the location or route of the pipeline should be changed, or that terms, conditions and restrictions regarding the location or route should be added to the permit. (testimony of Mr. Grigsby; permit renewal petition; O'Neal report)

Finally, in accordance with Iowa Code § 479.26, MidAmerican has satisfactorily demonstrated that it has property subject to execution within this state, other than pipelines, of a value in excess of \$250,000. (testimony of Mr. Grigsby; petition Exhibit D)

Since the pipeline was constructed prior to June 1, 1999, the requirements of Iowa Code § 479.29 do not apply.

FINDINGS OF FACT

1. MidAmerican is a pipeline company within the meaning of Iowa Code § 479.2 (2001). (testimony of Mr. Grigsby)
2. On June 28, 1974, the predecessor agency of the Board issued Pipeline Permit No. 867 in Docket No. P-739 to Iowa-Illinois Gas and Electric Company (predecessor corporation to MidAmerican Energy Company) to construct, operate, and maintain a natural gas pipeline in Scott County, Iowa. The permit was for the pipeline at issue in this case. (permit renewal petition; testimony of Mr. Grigsby; O'Neal report) On May 24, 1999, MidAmerican filed a petition and exhibits for renewal of its natural gas pipeline permit. (permit renewal petition; O'Neal report)
3. MidAmerican caused notice of the hearing to be published in Scott County in the Quad-City Times, morning edition, a newspaper of general circulation in the county, on August 22, 2001 and August 29, 2001. (proof of publication) MidAmerican filed proof of payment of the costs of publication of these notices as required by Iowa Code § 479.13 (2001) and 199 IAC 10.4. (proof of publication; proof of payment)
4. Continued operation of this pipeline is necessary to provide natural gas service to the existing John Deere plant in Davenport, Iowa. (permit renewal petition; testimony of Mr. Grigsby; O'Neal report) Therefore, the service promotes the public

convenience and necessity. (permit renewal petition; testimony of Mr. Grigsby; O'Neal report)

5. The pipeline complies with the construction, safety, and design requirements of Iowa Code Chapter 479 (2001), 199 IAC 10.12, and 49 C.F.R.

Part 192. (permit renewal petition; testimony of Mr. Grigsby; O'Neal report)

Therefore, there is no reason to impose additional safety-related terms, conditions, or restrictions.

6. The pipeline was built in 1974. (original 1974 file) The location and route of the pipeline are reasonable and there is no reason to change the location or route of the pipeline. No further terms, conditions, or restrictions regarding the location or route should be added to the permit. (permit renewal petition; testimony of Mr. Grigsby; O'Neal report)

7. MidAmerican has property subject to execution within this state, other than pipelines, of a value in excess of \$250,000, as required by Iowa Code § 479.26 (2001) and 199 IAC § 10.2(1)"d." (testimony of Mr. Grigsby; petition Exhibit D)

8. No written objections to the petition for permit renewal were filed, and no objectors appeared at the hearing. (Docket No. P-739 file)

CONCLUSIONS OF LAW

1. The Board has the authority to grant, amend, and renew permits for the construction, operation and maintenance of pipelines for the intrastate transportation of natural gas. Iowa Code §§ 479.1, 479.4, 479.12, and 479.18 (2001); 199 IAC 10.7.

2. The Board has jurisdiction over MidAmerican, and over the petition for permit renewal it has filed. Iowa Code §§ 479.2, 479.5, 479.6, 479.12, and 479.18 (2001).

3. The petition of MidAmerican for renewal of Pipeline Permit No. 867 in Docket No. P-739 should be granted. Iowa Code §§ 479.11, 479.12, and 479.26 (2001).

4. The provisions of Iowa Code § 479.29 (2001) do not apply to this permit because the pipeline was constructed prior to June 1, 1999. Iowa Code § 479.29(12) (2001).

IT IS THEREFORE ORDERED:

1. Official notice is taken of the report dated July 27, 2001, filed in this docket by Mr. Jeffrey L. O'Neal, regulatory engineer for the Board. Iowa Code § 17A.14(4) (2001).

2. Pursuant to Iowa Code Chapter 479 (2001), the petition for renewal of Pipeline Permit No. 867 filed by MidAmerican in this docket is granted. A permit will be issued if this proposed decision and order becomes the final order of the Board.

3. The Board retains jurisdiction of the subject matter in this docket.

4. This proposed decision will become the final decision of the Board unless appealed to the Board within fifteen days of its issuance. Iowa Code § 17A.15(3) (2001); 199 Iowa Admin. Code § 7.8(2).

UTILITIES BOARD

/s/ Amy L. Christensen
Amy L. Christensen
Administrative Law Judge

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

Dated at Des Moines, Iowa, this 12th day of September, 2001.